

1 **REMARKS**

2 In the August 26, 2003, Office Action the Examiner rejected claims 1-36 under 35 U.S.C. §§  
3 102(e) and/or 103(a). Applicant has cancelled Claims 6, 9-10, 21-22, 25-26, and 29-36, amended  
4 Claims 1-2, 7-8, 11-20, 23-24 and 27-28, and added new claims 37-42. Applicant's amendments and  
5 remarks will highlight the differences between the pending claims and the cited references such that it  
6 becomes apparent to the Examiner that these rejections should be reconsidered and withdrawn. In  
7 particular, applicant would like to direct the Examiner's attention to applicant's novel idea for the  
8 automated and rapid loading of a large number of samples for atmospheric pressure ionization (API) mass  
9 spectrometric analysis. Specifically, the claimed apparatus is directed at automating an atmospheric  
10 pressure ionization (API) source for a mass spectrometer whereby a robot interfaced with the API source  
11 retrieves and ionizes samples for analysis by positioning the API source such that it (i.e., the API source)  
12 may accept a sample from any of a plurality of locations on a source tray and then re-positioning the API  
13 source such that it may introduce ions of the sample into an inlet end of a fixed capillary for transport into  
14 a first vacuum region of a mass spectrometer. As will be demonstrated below, the cited references relied  
15 upon by the Examiner do not suggest the applicant's novel invention.

16 Initially, Claims 1-2, 5-14, 17-24, and 29-36 were rejected under 35 U.S.C. §102(e) as being  
17 anticipated by Park et al., U.S. Patent No. 6,410,914 ("Park"). Applicant respectfully submits that the  
18 Examiner's reliance on Park is misplaced. Specifically, as clarified by the amended claims, the present  
19 invention is directed at automating an atmospheric pressure ionization (API) source for a mass spectrometer  
20 whereby a robot interfaced with the API source retrieves and ionizes samples for analysis by positioning  
21 the API source such that it (i.e., the API source) may accept a sample from any of a plurality of locations

1 on a source tray and then re-positioning the API source such that it may introduce ions of the sample into  
2 an inlet end of a fixed capillary for transport into a first vacuum region of a mass spectrometer. Nowhere  
3 does Park disclose an apparatus where a robot controls and positions an API source to receive a sample  
4 and then re-position the same API source to introduce ions into the sampling orifice or inlet of a capillary  
5 leading to a vacuum region of a mass analyzer. Even the passage at col. 9, lines 45-67 of Park do not  
6 teach such a novel apparatus. Therefore, applicant respectfully submits that in light of the above  
7 amendments and remarks the Examiner's rejection of Claims 1-2, 5, 7-8, 11-14, 17-20, and 23-24 should  
8 be reconsidered and withdrawn.

9 Moreover, as the Examiner correctly states, Park and the inventor of the present invention are one  
10 and the same, and the present invention is not the invention by another as required by 35 U.S.C. §102(e).  
11 However, because applicant feels that the claimed invention is neither taught nor disclosed by Park, as  
12 discussed above, and thus no showing under 37 CFR §1.132 is provided at this time. In the event, the  
13 Examiner disagrees with the applicant's distinguishing arguments above and maintains his rejection under  
14 35 U.S.C. §102(e) as being anticipated by Park, the applicant will reconsider submitting a Declaration  
15 under 37 CFR §1.132 in support of the position that the invention disclosed but not claimed in Park is not  
16 the invention by another.

17 Next, the Examiner rejected Claims 3-4, 15-16, and 25-28 (Claims 25-26 now cancelled) under  
18 35 U.S.C. § 103(a) as being unpatentable over Park in view of Andresen et al., U.S. Patent No.  
19 4,391,778 ("Andresen"). Initially, applicant submits that in view of the remarks above regarding Park even  
20 a combination of Park and Andresen do not teach or render obvious the claimed invention. Accordingly,  
21 applicant requests that this rejection of Claims 3-4, 15-16 and 27-28 be reconsidered and withdrawn.

Regarding Claims 3-4, 15-16 and 26 (Claim 26 now cancelled), in the opinion of the Examiner, Andresen teaches a capillary comprising a channel having a helical or sinusoidal structure. Applicant respectfully disagrees. Rather, Andresen merely discloses a gas tube which is formed into a helical shape – the channel within the gas tube is not helical or sinusoidal. Accordingly, it is respectfully requested that this rejection of Claims 3-4 and 15-16 be withdrawn.


Finally, regarding the missing inventor signature on the Power of Attorney form, applicant has included the executed Power of Attorney form. Applicant thanks the Examiner for calling this to his attention.

## CONCLUSION

In view of the foregoing, applicant respectfully submits that the present invention represents a patentable contribution to the art and the application is in condition for allowance. Early and favorable action is accordingly solicited.

Date: February 25, 2004

Respectfully submitted,

  
David M. Hill  
Reg. No. 46,170  
WARD & OLIVO  
708 Third Avenue  
New York, New York 10017  
(212) 697-6262